APPENDIX A

THE SUPREME COURT OF THE STATE OF OHIO

THE STATE OF OHIO,
City of Columbus.

1967 *TERM*
To wit: December 13, 1967

Ruth E. Biddle, Admrx.,
Plaintiff-Appellant,

vs.

Ida Bowser et al.,
Defendants-Appellees.

No. 41273
MANDATE

To the Honorable COMMON PLEAS COURT *Within and for the County of* MONTGOMERY, *Ohio, Greeting:*

The Supreme Court of Ohio commands you to proceed without delay to carry the following judgment in this cause into execution:

Appeal dismissed, sua sponte, no substantial constitutional question involved.

THOMAS L. STARTZMAN,
Clerk

_____ *19*

_____

_____ *Deputy*

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RECORD OF COSTS

Docket Fee . . . . $20.00 *Paid by* Clarence J. Stewart
Docket Fee . . . . $ ..... *Paid by* .....
Docket Fee . . . . $ ..... *Paid by* .....
Printing Record . . . $ ..... *Paid by* .....
Supplemental Record . $ ..... *Paid by* .....
Sheriff's Costs . . . $ ..... *Paid by* .....
Sheriff's Costs . . . . $ ..... *Paid by* .....

THE SUPREME COURT OF THE STATE OF OHIO

THE STATE OF OHIO,
City of Columbus.

1968 *TERM*

To wit: January 17, 1968

Ruth E. Biddle, Admrx.,
Plaintiff-Appellant,

vs.

Ida Bowser et al.,
Defendants-Appellees.

No. 41273
REHEARING

It is ordered by the court that rehearing in this case is denied.

I THOMAS L. STARTZMAN, Clerk of the Supreme Court of the State of Ohio, do hereby certify that the foregoing entry was correctly copied from the records of said Court, to wit from Journal No. ..... *Page* .....

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Supreme Court this 17th *day of* January, 1968.

THOMAS L. STARTZMAN, *Clerk.*
By ..... *Deputy.*

APPENDIX B

Ohio Const. Art. I, §16:

"All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay. Suits may be brought against the state, in such courts and in such manner as may be provided by law. (Adopted September 3, 1912)."

Ohio Const. Art. II, §39:

"Laws may be passed for the regulation of the use of expert witnesses and expert testimony in criminal trials and proceedings. (Adopted September 3, 1912)."

Ohio Rev. Code, §2317.36 (Third Edition, 1964):

Admissible Reports. "A written report on findings of facts prepared by an expert who is not a party to the cause, nor an employee of a party, except for the purpose of making such report or finding, nor financially interested in the result of the controversy, and containing the conclusions resulting wholly or partly from written information furnished by the cooperation of several persons acting for a common purpose, shall, in so far as the same is relevant, be admissible when testified to by the person, or one of the persons, making such report or finding without calling as witnesses the persons furnishing the information, and without producing the books or other writings on which the report or finding is based, if, in the opinion of the court, no substantial injustice will be done the opposite party."

Ohio Rev. Code, §2945.40 (Third Edition, 1964):

Expert Witnesses in Insanity Cases. "In any case in which insanity is set up as a defense, or in which present insanity of the accused is under investigation by a court

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or jury, the court may commit the defendant to a local hospital for the mentally ill, or the Lima state hospital, where the defendant shall remain under observation for such time as the court directs not exceeding one month. The court may in such case appoint one or more, but not more than three, disinterested qualified physicians, specialists in mental diseases, to investigate and examine in the mental condition of the defendant and testify as experts at his trial or other hearing. In case of such appointment, the court shall forthwith notify counsel of the names and addresses of the persons so appointed. The expert witnesses appointed by the court may be called by the court and shall be subject to examination and cross-examination by the prosecuting attorney and counsel for the defendant. The appointment of such witnesses, and their testifying as witnesses, shall not preclude the prosecuting attorney or defendant from calling other witnesses to testify on the subject of insanity. Such persons so appointed may be required by the court to prepare a written statement under oath, concerning the mental condition of the defendant, and file the same in the case. Such report shall not be read as evidence, except that it may be used by either counsel on the cross-examination of the witness who signed the same. The court shall instruct the jury in case of such appointment and testimony of such expert witnesses, that the credibility of such witnesses, in common with all other witnesses in the case, is for the exclusive consideration and determination of the jury. Persons so appointed shall be paid a reasonable fee for their examination or service and their reasonable expenses, the amount whereof shall be certified by the judge or court making the appointment and paid by the county."

Ohio Rev. Code, §2505.071 (Third Edition, 1964):

"Application for reconsideration of any cause or motion

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submitted on appeal shall be made in writing before the judgment or order of the court has been approved by the court in writing, and filed with the clerk for journalization or within ten days after the announcement of the Court's decision, whichever is the earlier. If an application for reconsideration has been filed within such time, the court shall not journalize the order or judgment until such application has been disposed of. No oral argument of an application for reconsideration shall be permitted except at the request of the court on its own motion."